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April 4, 2001

01-88

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Room TW-B-204
445 12th Street, S.W.
Washington, D.C. 20554

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APR - 4 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region InterLATA Services in Missouri

Dear Ms. Salas:

No. of Copies rec'd 041
List A B C D E

Pursuant to the Commission's filing requirements for Bell company applications under section 271 of the Communications Act, the following are being provided with this letter:

- One original and one copy of the entire Application in paper form, redacted for public inspection. The Application includes a brief in support of the Application and seven appendices containing supporting documentation.
- Two CD-ROM sets containing the entire Application, in electronic form, redacted for public inspection.
- One original in paper form of only those portions of the Application that contain confidential information. This includes portions of Appendix A (Affidavits and Supporting Material), Appendix C (Section 271 Proceeding), Appendix D (Collocation), and Appendix G (Selected Documents). One copy of this letter will also accompany the confidential portions of the Application. Some of the material we are submitting includes confidential information relating to Southwestern Bell's

REDACTED – For Public Inspection

wholesale and retail operations in Missouri, as well as other information containing trade secrets. None of this information is disclosed to the public, and disclosure would cause substantial harm to the competitive position of Southwestern Bell. As such, we are requesting that these portions of the Application receive confidential treatment by the Commission.

Please date-stamp the extra copies of this letter and return it to the individual delivering this package.

We are submitting a copy of the entire Application, in paper form, redacted for public inspection, to ITS (the Commission's copy contractor). In addition, a total of 30 copies of the brief and 20 copies of Appendix A in paper form, and 20 CD-ROM versions of the entire Application in electronic form, all redacted for public inspection, are being provided to the Common Carrier Bureau.

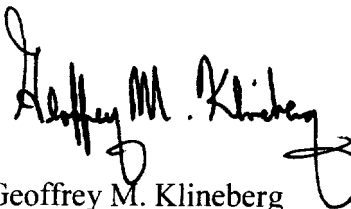
We are also submitting two copies of this cover letter and the confidential material to Tom Navin, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Room 5-C-327, 455 12th Street, S.W., Washington, D.C. 20554 and to Katherine E. Brown, U.S. Department of Justice, 1401 H Street, N.W., Suite 8000, Washington, D.C. 20530. Finally, we are providing the Department of Justice eight copies of the brief and Appendix A in paper form and seven CD-ROM versions of the entire Application in electronic form, all redacted for public inspection.

All inquiries relating to access (subject to the terms of any applicable protective order) to any confidential information submitted by Southwestern Bell in support of this Application should be addressed to:

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Should you have any questions, please call me at (202) 326-7928. Thank you for your assistance in this matter.

Sincerely,



Geoffrey M. Klineberg

Encs.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Application by SBC Communications Inc.,
Southwestern Bell Telephone Company, and
Southwestern Bell Communications Services,
Inc. d/b/a Southwestern Bell Long Distance for
Provision of In-Region, InterLATA Services in
Missouri

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APR - 4 2001

FEDERAL COMMUNICATIONS COMMISSION
CC Docket No. OFFICE OF THE SECRETARY

01-88

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY SOUTHWESTERN BELL
FOR PROVISION OF IN-REGION, INTERLATA SERVICES IN
MISSOURI**

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April 4, 2001

EXECUTIVE SUMMARY

With this Application, Southwestern Bell seeks authority to provide long-distance telecommunications services to the citizens of Missouri. Now that this Commission has granted such authority to Southwestern Bell in Texas, Kansas, and Oklahoma, and to Verizon in New York, the requirements of 47 U.S.C. § 271 are clear. As demonstrated in detail below and in the more than 60,000 pages of supporting materials, Southwestern Bell has satisfied the requirements for section 271 relief in Missouri. Accordingly, the Missouri Public Service Commission ("Missouri PSC"), after nearly two-and-a-half years of reviewing Southwestern Bell's compliance with the requirements of section 271, has now issued a final order, comprehensively reviewing Southwestern Bell's compliance with the competitive checklist and recommending without reservation that this Commission approve the application to provide in-region, interLATA services in Missouri.

The level of competitive entry in Missouri is comparable to (or, by some measures, even greater than) that which existed in Texas when Southwestern Bell's application was initially filed with this Commission in early 2000. This is so, notwithstanding the fact that Missouri is substantially less urban than Texas.

Moreover, Southwestern Bell has duplicated in Missouri the market-opening initiatives that were developed in Texas, in a lengthy collaborative process overseen by the Public Utility Commission of Texas ("Texas Commission"). The Missouri 271 Agreement substantially tracks the Texas 271 Agreement, which goes beyond what federal law now requires and which was found by the Texas Commission, the Department of Justice ("DOJ"), and this Commission to satisfy all the requirements for section 271 relief. As this Commission recently explained when granting section 271 relief in Kansas and Oklahoma, "SWBT has taken the statutorily required

steps to open its local exchange markets to competition” Kansas/Oklahoma Order ¶ 1.¹

That was true in Texas, Kansas, and Oklahoma, and it is true in Missouri.

Not only are interconnection agreements with substantially similar non-price provisions available to CLECs in Missouri, but the same systems and processes for pre-ordering, ordering, billing, and maintenance and repair are in place to ensure that CLECs have a meaningful opportunity to compete. Moreover, CLECs in Missouri have access to the same change management process (“CMP”) and performance penalty plans to ensure that Southwestern Bell lives up to the terms of its agreements. And CLECs can measure Southwestern Bell’s performance in the same way that they do in Texas; indeed, as was also true for Kansas and Oklahoma, CLECs serving customers in Missouri will benefit from the new and improved performance measurements (Version 1.7) that gauge access to the new unbundled network elements (e.g., dark fiber, line sharing) that were not required at the time of the Texas application.

The data in Missouri show that Southwestern Bell’s overall performance has been outstanding. CLECs have demonstrated their ability to compete with Southwestern Bell by capturing at least 204,000 (and probably closer to 338,000) lines in the Missouri business market, and they likewise serve at least 59,900 (and probably closer to 92,000) residential lines in Southwestern Bell territory in the State. Southwestern Bell has 119 approved interconnection and/or resale agreements with CLECs in Missouri, and approximately 21 CLECs are currently providing facilities-based local voice service. These competing carriers have focused on serving businesses in the St. Louis and Kansas City markets, but they are winning significant numbers of

¹ Memorandum Opinion and Order, Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, FCC 01-29 (rel. Jan. 22, 2001).

customers in smaller towns as well. In fact, CLECs have operations in Southwestern Bell's wire centers in Missouri that serve 82 percent of SWBT's access lines. CLECs are now serving anywhere between 9.2 and 14.2 percent of Missouri access lines.

To assist CLECs in winning and serving their customers, Southwestern Bell is providing every item on section 271's 14-point competitive checklist. Southwestern Bell has provisioned thousands of unbundled local loops and hundreds of unbundled switch ports in Missouri. CLECs also can order "UNE Platforms," which consist of a local loop pre-assembled with the necessary switching facilities. In Missouri, Southwestern Bell has installed more than 103,000 interconnection trunks to send calls to and receive calls from CLEC customers. Former Southwestern Bell customers have taken more than 245,000 Southwestern Bell telephone numbers with them to CLECs using local number portability.

To order these items and deliver their service-related requests, CLECs in Missouri can choose from a wide selection of electronic (and manual) operations support systems ("OSS"). These include industry-standard systems; customized systems that have not been required by regulators or industry standard-setting bodies, but that were developed by Southwestern Bell and offered to fit particular CLECs' business plans; and proprietary systems used by Southwestern Bell's own retail representatives. Southwestern Bell's OSS have met other carriers' needs by processing more than 831,000 CLEC orders specifically for Missouri through February 2001.

In addition to this commercial experience, the same Southwestern Bell systems, processes, and procedures used in Missouri were subjected to a third-party test under the auspices of the Texas Commission. All of the tested systems except one were already in commercial use; the one exception is now in commercial use as well. Nevertheless, the Texas Commission selected an independent technical expert, Telcordia Technologies, to assess the

readiness and capabilities of Southwestern Bell's systems for serving CLECs, as well as the accuracy of Southwestern Bell's monthly reports on its performance. To make the test as realistic as possible, Southwestern Bell received "blind" service requests from actual CLEC systems. After nearly a year of cooperative planning and testing, with the participation of AT&T, WorldCom, and other CLECs at every stage, Telcordia and the Texas Commission found that Southwestern Bell's systems provide CLECs nondiscriminatory access at current demand levels, and have the capacity to handle forecasted CLEC demand.

This application shows in multiple ways that Southwestern Bell provides nondiscriminatory access to local loops for CLECs' advanced services, such as digital subscriber line services and line sharing. And, in order to comply with the D.C. Circuit's recent ASCENT decision,² Southwestern Bell's advanced services affiliate has entered into an agreement in Missouri to allow CLECs to resell the advanced services it provides at retail by offering such services at the wholesale discount applicable to Southwestern Bell's own retail services. In addition to meeting the pricing requirements of state and federal law, Southwestern Bell affirmatively promotes local residential competition in Missouri by providing CLECs unbundled local loops for residential customers, and end-to-end residential services for resale, at prices that are 25 percent or more below the charges that would apply under statutory pricing rules.

The openness of the Missouri local market is verifiable, on an ongoing basis, through an extensive performance monitoring program. Southwestern Bell provides monthly reports on approximately 650 aspects of its wholesale service in Missouri, under plans developed with CLECs and DOJ during proceedings before the Texas Commission. The most recent data

² Association of Communications Enters. (ASCENT) v. FCC, 235 F.3d 662 (D.C. Cir. 2001).

available indicate that Southwestern Bell's performance in Missouri met or surpassed parity or benchmark standards for approximately 90 percent of the performance measures having ten or more data points during at least two of the last three months (December 2000-February 2001).

It is undeniable that Southwestern Bell's entry into the long-distance market in Missouri will be in the public interest. After only six months in the long-distance business in Texas, Southwestern Bell had 1.7 million long-distance lines, representing 1.4 million customers. The Big Three interexchange carriers have responded with promotions, free gifts, and bundled service offerings. Since the Texas application was approved, AT&T reduced its long-distance rates in Texas by more than 50 percent – from 15 cents a minute to seven cents a minute – and WorldCom and Sprint have rolled out new long-distance offerings. And on the eve of Southwestern Bell's scheduled launch of long-distance service in Kansas and Oklahoma, AT&T announced a special deal according to which its long-distance customers in those states would receive 30 free minutes of long-distance calling. This Commission should allow consumers in Missouri to reap the same benefits.

And such benefits are not limited to long-distance competition. As reflected in the growth of such competitive indicators as lines captured by facilities-based CLECs, collocation arrangements, and orders processed in the months since the granting of Southwestern Bell's section 271 application for Texas, the prospect of Southwestern Bell's participation in the long-distance market has provided CLECs a powerful incentive to invest in local competition.

To further the public interest in ensuring that Southwestern Bell continues to provide its current high level of service to competing carriers, Southwestern Bell has proposed a plan under which it would pay affected CLECs, as well as the Missouri State Treasury, if Southwestern Bell fails to meet those standards. In the event of deficient performance in Missouri, Southwestern

Bell's payments to CLECs and the Missouri State Treasury could be as much as \$98 million per year, which is virtually the same liability – measured as a percentage of net revenue – that was approved in Texas, Kansas, Oklahoma, and New York. Such liability, together with this Commission's powers to rescind or limit interLATA authority or otherwise impose penalties for violations of legal duties, make “backsliding” after Southwestern Bell enters the interLATA market in Missouri inconceivable. Southwestern Bell has an overwhelming incentive to fulfill all the obligations described in this Application, if for no other reason than its performance in Missouri will be subject to repeated review when SBC seeks section 271 relief elsewhere. In fact, in Texas, there has been no evidence of backsliding after Southwestern Bell received section 271 relief, even though the volume of CLEC activity has increased substantially.

Southwestern Bell, the Missouri PSC, and CLECs have worked together to make the local market in Missouri fully and irreversibly open to competition. This Commission should now do its part and open the long-distance markets in Missouri to the same, free competition.

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Attachment 4:	Detailed List of Appendices (Separately Bound)

APPENDICES

Appendix A: Affidavits

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- Tab 2. William T. Adair
(Access to Telephone Numbers)
- Tab 3. Gary E. Caraway
(Access to Poles, Ducts, Conduits, and Rights-of-Way)
- Tab 4. Carol A. Chapman
(Unbundled Local Loops)
- Tab 5. William C. Deere
(Interconnection; Access to Network Elements; Unbundled Local Loops; Local Transport; Local Switching; Access to 911, E911, Directory Assistance, and Operator Call Completion Services; Access to Databases and Associated Signaling Necessary for Call Routing and Completion; Number Portability; Local Dialing Parity; Other Network-Related Issues)
- Tab 6. Gilbert T. Orozco
(Number Portability)
- Tab 7. Jan D. Rogers
(Access to 911, Operator Services, Directory Assistance; Access to White Pages Directory Listings; Access to Databases and Associated Signaling)
- Tab 8. Lincoln E. Brown
(Operations of SBC's Separate Advanced Services Affiliate)
- Tab 9. Thomas F. Hughes
(Missouri Public Service Commission Proceedings)
- Tab 10. Barbara A. Smith
(Cost Studies)
- Tab 11. Rebecca L. Sparks
(Interconnection; Access to Network Elements; Unbundled Local Transport; Unbundled Local Switching; Reciprocal Compensation for the Exchange of Local Traffic; Resale)
- Tab 12. Elizabeth A. Ham
(Access to Electronic OSS)
- Tab 13. Derrick F. Hamilton
(Access to Mechanized Actual Loop Qualification Information)

- Tab 14. Weldon McLaughlin
(Billing)
- Tab 15. Brian D. Noland
(Local Services Center)
- Tab 16. David R. Smith
(Local Operations Center)
- Tab 17. Bill E. VanDeBerghe
(Access to Legacy OSS and Work Groups)
- Tab 18. William R. Dysart
(Performance Monitoring)
- Tab 19. Joe Carrisalez
(Separate Affiliate Compliance)
- Tab 20. Robert Henrichs
(Accounting Safeguards Compliance)
- Tab 21. Sherry L. Ramsey
(SWBT/ASI Compliance with Merger Conditions)
- Tab 22. Linda G. Yohe
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- Tab 23. Brian L. Horst
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Appendix B: Selected Interconnection Agreements

Appendix C: Selected Portions of the Record of the Missouri Public Service Commission
Case No. TO-99-227
(Section 271 Proceeding)

Appendix D: Selected Portions of the Record of the Missouri Public Service Commission
Case No. TT-2001-298
(Collocation Proceeding)

Appendix E: Accessible Letters

Appendix F: OSS Accessible Letters

Appendix G: Selected Documents

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Application by SBC Communications Inc.,
Southwestern Bell Telephone Company, and
Southwestern Bell Communications Services,
Inc. d/b/a Southwestern Bell Long Distance for
Provision of In-Region, InterLATA Services in
Missouri

CC Docket No. _____

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY SOUTHWESTERN BELL
FOR PROVISION OF IN-REGION, INTERLATA SERVICES IN
MISSOURI**

INTRODUCTION

Pursuant to section 271(d)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, § 151(a), 110 Stat. 89 (“1996 Act” or “Act”), SBC Communications Inc. (“SBC”) and its subsidiaries Southwestern Bell Telephone Company (“SWBT”) and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance (“SBCS”) – collectively, “Southwestern Bell” – seek authority to provide in-region, interLATA services (including services treated as such under 47 U.S.C. § 271(j)) in the State of Missouri.³

This filing follows years of work by SWBT to replace systems and operating procedures that had been designed for a franchised monopoly environment with systems and procedures that

³ Southwestern Bell will soon file with the FCC an application for authorization under 47 U.S.C. § 214 to provide international services originating in Missouri.

serve CLECs and their customers on a nondiscriminatory basis.⁴ As this Commission has already concluded three times – in its orders approving the section 271 applications for Texas, Kansas, and Oklahoma – Southwestern Bell has presented evidence demonstrating that SWBT provides nondiscriminatory access to the systems and processes that allow CLECs to formulate and place orders for network elements or resale services, to install service to their customers, to maintain and repair network facilities, and to bill customers. See Texas Order,⁵ 15 FCC Rcd at 18400, ¶ 99; Kansas/Oklahoma Order ¶ 106. The evidence presented with this Application confirms what this Commission has already found to be true in Texas, Kansas and Oklahoma: that, in Missouri, the same procedures and processes ensure nondiscriminatory access to the same systems. See Ham Aff. ¶¶ 13-20 (App. A, Tab 12); D. Smith Aff. ¶¶ 4-31 (App. A, Tab 16); VanDeBerghe Aff. ¶¶ 9-34 (App. A, Tab 17). See generally Noland Aff. (App. A, Tab 15); Part II.B.6 (OSS), infra.

The Missouri PSC has been actively involved in reviewing the efforts of SWBT to adapt its systems to the new, wholesale environment. The State commission drew on work already done in Texas to ensure that its consideration of SWBT's application would meet all four criteria for authoritativeness listed in this Commission's New York Order⁶ and Texas Order. As described throughout this Application, the Missouri PSC assembled a record including:

⁴ Pursuant to the Public Notice, Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act, DA 01-734, at 3 (Mar. 23, 2001), Southwestern Bell is providing a copy of the Application materials on its web site at <http://www.sbc.com>.

⁵ Memorandum Opinion and Order, Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas, 15 FCC Rcd 18354 (2000).

⁶ Memorandum Opinion and Order, Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, 15 FCC Rcd 3953 (1999).

- participation by all interested parties in years of proceedings relating to section 271;
- reliance on extensive third-party testing of certain of SWBT's systems, processes, and procedures, carried out under the auspices of the Texas and Missouri Commissions;
- the results of technical conferences, hearings, and workshops before the Texas and Missouri Commissions in which SWBT and CLECs worked through implementation issues; and
- comprehensive performance monitoring and enforcement mechanisms, with severe penalties for performance failures.

Since before the passage of the 1996 Act, the Missouri PSC has taken substantial steps to ensure that local telecommunications exchange markets in Missouri are open to competition. See Hughes Aff. ¶¶ 6-8 (App. A, Tab 9). After 1996, the process began in earnest with an arbitration proceeding including SWBT, AT&T, and MCI (now WorldCom) in Case Nos. TO-97-40, et al., where the Missouri PSC determined the terms and conditions for resale, interconnection and certain unbundled network elements. This proceeding also established rates based on the Commission's Total Element Long Run Incremental Cost ("TELRIC") principles for many of the services offered by SWBT to CLECs. The Missouri PSC undertook an additional review of SWBT's costs in a second arbitration proceeding involving SWBT and AT&T in Case No. TO-98-115. Id. ¶ 11. The Missouri PSC has also conducted arbitration proceedings in which it established rates, terms and conditions for the provision of Digital Subscriber Line ("DSL") services. Id. ¶ 12.

On September 25, 1997, the Missouri PSC issued an order requiring SWBT to give the Missouri PSC four months notice before SWBT intended to file an application for relief under section 271 with this Commission. On November 20, 1998, SWBT filed its application with the

Missouri PSC to provide in-region, interLATA services originating in Missouri pursuant to section 271 of the Telecommunications Act of 1996.⁷

In response to SWBT's filing, the Missouri PSC conducted an extensive evidentiary hearing between March 1 and March 9, 1999. Many parties, including Missouri CLECs, the Missouri PSC Staff, the Office of Public Counsel, and the Attorney General of the State of Missouri, participated actively in these hearings. Simultaneously, the Texas Commission was engaged in its own lengthy and rigorous collaborative process, including a thorough review of SWBT's policies, practices and procedures for opening its local markets to competition; a comprehensive, third-party test of SWBT's region-wide OSS conducted by Telcordia Technologies, Inc.; the adoption of performance measures developed through the collaborative process; and implementation of a performance remedy plan with strong financial incentives to prevent "backsliding." See Hughes Aff. ¶ 14.

In June 2000, SWBT filed a motion requesting that it be allowed to update the record and that the Missouri PSC approve its proposed Missouri Interconnection Agreement ("M2A") (App. B). The M2A is modeled on the Texas 271 Interconnection Agreement ("T2A"), which had been reviewed and approved by the Texas Commission and which has since been approved by this Commission in the Texas Order. The M2A generally followed the substantive terms of the T2A, while also incorporating the Missouri PSC's arbitration decisions and various other modifications. The M2A provided terms for interconnection, access to unbundled network

⁷ See Notice of Filing of Interim Consultant Report and Motion for Setting of Procedural Dates, Application of Southwestern Bell Telephone Company to Provide Notice of Intent to File an Application for Authorization to Provide In-Region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996, Case No. TO-99-227 (MPSC Oct. 12, 2000) (App. C, Tab 64).

elements (“UNEs”) (including combinations of UNEs not currently combined in SWBT’s network), and resale. By its terms, the M2A will be effective for one year after the Missouri PSC’s finding that it complies with the requirements of section 271. If this Commission were to approve this Application, the terms of the M2A would be extended for an additional three years.

The Missouri PSC built on all of the work completed by the Texas Commission by initiating its own proceeding in which Ernst & Young was engaged to evaluate SWBT’s data collection processes for performance measures as well as to verify that the Telcordia OSS Test was a sufficient basis on which to conclude that SWBT could successfully process the anticipated commercial volume of CLEC orders in Missouri. Ernst & Young’s evaluation confirmed that SWBT could handle the anticipated commercial volume in Missouri and validated SWBT’s data collection processes. See Hughes Aff. ¶ 15.

In October 2000, the Missouri PSC conducted open hearings on SWBT’s application. These hearings resembled a collaborative process during which the Commissioners engaged in a question-and-answer session with the parties over two days. All interested parties then filed two rounds of briefing concerning SWBT’s compliance with the 14-point checklist. Id. ¶ 17. Additional hearings took place in November 2000, and the Missouri PSC once again permitted all parties to participate and to raise any issue relating to SWBT’s compliance with its statutory and regulatory obligations. During these hearings, Ernst & Young described in detail the review it had conducted of SWBT’s data collection and OSS processes. The Missouri PSC ordered its Staff to conduct a technical conference with Ernst & Young and interested parties to respond to any additional questions that CLECs had about Ernst & Young’s review. That conference was conducted at the end of January 2001. See id. ¶¶ 18-20. The Missouri PSC conducted an additional hearing on January 31, 2001, affording the CLECs a final opportunity to raise any

remaining issues and allowing the Missouri PSC to seek clarification on the parties' positions.
Id. ¶ 21.

On February 13, 2001, the Missouri PSC issued its Interim Order.⁸ The Missouri PSC identified specific areas in which it concluded that the version of the M2A before it did not satisfy the competitive checklist. The Missouri PSC then explained precisely what changes were necessary: "If SWBT should file a revised version of the M2A with the modifications as recommended in this preliminary position statement, after a reasonable time for review of the agreement, the [Missouri PSC] could find that SWBT has demonstrated compliance with the 14-point competitive checklist and make a conditional recommendation to the FCC for approval of SWBT's intraLATA application." Interim Order at 3. SWBT submitted final revisions to the M2A on February 28, 2001, see generally M2A, and the Missouri PSC Staff filed a response on March 1, 2001, concluding that, in its opinion, SWBT's revised M2A was now fully compliant with the Missouri PSC's Interim Order.⁹

On March 6, 2001, the Missouri PSC issued its Compliance Order,¹⁰ concluding that SWBT's application, as revised, had satisfied the requirements of section 271(c) and that

⁸ See Interim Order Regarding the Missouri Interconnection Agreement, Application of Southwestern Bell Telephone Co. to Provide Notice of Intent to File an Application for Authorization to Provide In-Region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996, Case No. TO-99-227 (MPSC Feb. 13, 2001) (App. C, Tab 86).

⁹ See Staff Report to Commission, Application of Southwestern Bell Telephone Co. to Provide Notice of Intent to File an Application for Authorization to Provide In-Region, InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996, Case No. TO-99-227 (MPSC Mar. 1, 2001) (App. C, Tab 95).

¹⁰ See Order Finding Compliance with the Requirements of Section 271 of the Telecommunications Act of 1996, Application of Southwestern Bell Telephone Company to Provide Notice of Intent to File an Application for Authorization to Provide In-Region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996, Case No. TO-99-227 (MPSC Mar. 6, 2001) (App. C, Tab 96).

SWBT's entry into the interLATA long-distance market in Missouri is in the public interest, provided that the M2A is made available to Missouri competitive local exchange carriers.

Based on the extensive record in this case, the availability of the M2A to Missouri CLECs, and the Commission's intention to expeditiously determine permanent rates, terms and conditions, for collocation, line sharing, line splitting, loop conditioning, and unbundled network elements, the Commission supports SWBT's application to the FCC.

Compliance Order at 4 (footnote omitted).

Finally, on March 15, 2001, the Missouri PSC issued its 92-page Final Missouri PSC Order,¹¹ comprehensively analyzing SWBT's compliance with the competitive checklist and concluding "[b]ased on the extensive record in this case, the availability of the M2A to Missouri CLECs, and the Commission's intention to expeditiously determine permanent rates, terms, and conditions for collocation, line sharing, line splitting, loop conditioning, and unbundled network elements," that SWBT has met the statutory requirements for relief under section 271. Final Missouri PSC Order at 91. The Missouri PSC "recommends that the FCC grant SWBT's Application for authorization to provide in-region, interLATA services in the state of Missouri." Id.

DISCUSSION

I. SOUTHWESTERN BELL IS ELIGIBLE TO SEEK INTERLATA RELIEF UNDER SECTION 271(c)(1)(A)

By any measure, competition is growing rapidly in Missouri. In the second half of 2000, CLECs' facilities-based lines grew by more than 60 percent, and UNE loops by more than 80

¹¹ Order Regarding Recommendation on 271 Application Pursuant to the Telecommunications Act of 1996 and Approving the Missouri Interconnection Agreement (M2A), Application of Southwestern Bell Telephone Co. to Provide Notice of Intent to File an Application for Authorization to Provide In-Region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996, Case No. TO-99-227 (MPSC Mar. 15, 2001) (App. C, Tab 98).

percent. See Tebeau Aff. ¶ 7 (App. A, Tab 1). During that same period, operational collocation arrangements grew 472 percent. Id. Indeed, CLECs' existing collocation arrangements allow them to serve more than 88 percent of the business customers in SWBT's Missouri serving area, and 79 percent of the residential customers. Id. ¶¶ 6, 30 & Table 5. The CLECs' installed switching capacity is capable of serving more customers than SWBT serves in the entire State. Id. ¶ 26 & Table 4. Moreover, although most CLECs in Missouri, like elsewhere, concentrate on major metropolitan areas, local competition is arriving in Missouri's rural areas as well. CLECs are currently serving customers in Cedar Hill (population 234), Neosho (population 9,531), and Joplin (population 44,612). Id. ¶ 6.¹²

SWBT has lost between nine and 14 percent of its total lines to unaffiliated carriers in Missouri. Tebeau Aff. ¶ 5 & Table 2; see also Final Missouri PSC Order at 20 (finding "that CLECs serve approximately 12 percent of access lines in SWBT territory").¹³ As of February 2001, at least 166,000 of these lines, and probably closer to 332,000, are served by competitors over their own facilities. Tebeau Aff. Table 1.¹⁴ CLECs have captured at least 204,000, and

¹² SWBT has 119 approved interconnection and/or resale agreements with CLECs in Missouri. See Tebeau Aff. ¶ 4. These agreements are listed in Tebeau Aff. Attach. B. A selection of the most significant Missouri interconnection agreements are reproduced in Appendix B of this Application. The status of federal court challenges to SWBT's agreements in Missouri is provided in Attachment 3 to this Brief.

¹³ This finding was based on information that the CLECs themselves provided to the Missouri PSC Staff. See Staff's Response Comments to October Question and Answer Session, and to Interim Consultant Report at 7 & App. A ¶ 17, Application of Southwestern Bell Telephone Company to Provide Notice of Intent to File an Application for Authorization to Provide In-Region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996, Case No. TO-99-227 (MPSC filed Oct. 26, 2000) (App. C, Tab 67).

¹⁴ The lower estimate is derived from SWBT's E911 database, and therefore reflects only lines from which outbound calls can be made. Because this methodology does not count lines set up only to receive calls – such as those operated by call centers, reservationists, and Internet service providers ("ISPs"), for example – it likely understates the extent of facilities-based

probably closer to 338,000, lines in the Missouri business market, and they likewise serve between 59,900 and 92,000 residential lines in SWBT territory. See Tebeau Aff. Tables 1, 6. Clearly, CLECs are providing Missouri consumers “an actual commercial alternative.”¹⁵

The table below reflects the extent of CLEC activity in Missouri:

CLEC ACTIVITY IN MISSOURI							
FACILITIES-BASED					RESALE		CLEC Orders Processed by SWBT
UNE Platforms	Interconnection Trunks	Unbundled Loops	E911 Listings	Ported Numbers	Business Lines	Residential Lines	
47,410	103,716	61,722	119,460	245,320	62,363	35,488	
							831,630

See Tebeau Aff. Attach. A.

A number of CLECs are providing services to residential and business subscribers in Missouri, either exclusively or predominantly over their own facilities, thereby establishing that Southwestern Bell satisfies Track A. See 47 U.S.C. § 271(c)(1)(A). See generally Tebeau Aff. Attachs. B, G. These “Track A” carriers include, for example, AT&T. AT&T has several operational voice switches in Missouri, operates under an approved interconnection agreement, and provides facilities-based service via its cable TV facilities, to many thousands of residential and business subscribers. See Tebeau Aff. Attach. G ¶¶ 1, 3-4. Likewise, WorldCom offers service almost exclusively over its own facilities to business and residential customers. Id.

competition in Missouri. See Tebeau Aff. ¶ 16. The higher estimate is derived by multiplying the total number of interconnection trunks provided by SWBT in Missouri by a factor of 2.75 – a conservative estimate of the average number of lines served by each interconnection trunk. See id. ¶¶ 17-22.

¹⁵ Memorandum Opinion and Order, Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, 12 FCC Rcd 20543, 20585, ¶ 77 (1997) (“Michigan Order”); see Kansas/Oklahoma Order ¶ 42. While many facilities-based carriers in Missouri have substantial numbers of subscribers, there is no statutory requirement that a qualifying CLEC under section 271(c)(1)(A) serve any particular quantity of customers. See Michigan Order, 15 FCC Rcd at 20584-85, ¶¶ 76-77. Congress rejected metric tests of actual competition in favor of a clear statutory “test of when markets are open.” 141 Cong. Rec. S8188, S8195 (daily ed. June 13, 1995) (statement of Sen. Pressler).

Attach. G ¶¶ 5-6. And Ionix provides UNE-platform service to business and residential customers, thereby qualifying as a Track A carrier as well. Id. Attach. G ¶¶ 15-16; see Michigan Order, 12 FCC Rcd at 20598, ¶ 101 (service provided through UNEs is facilities-based for purposes of Track A).

Additional CLECs individually and/or collectively qualify as Track A providers under the standards developed in prior Commission decisions.¹⁶ As the Affidavit of David R. Tebeau shows, these qualifying carriers include, for example, Birch and Global Crossing/Frontier, each of which provides predominantly facilities-based service to business customers in Missouri, considered in combination with the multitude of carriers that provide service to the residential market. See Tebeau Aff. Attach. G ¶¶ 9-12; id. Attach. B.

II. SOUTHWESTERN BELL'S MISSOURI PSC-APPROVED AGREEMENTS SATISFY ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST

Because the “competitive checklist” of section 271(c)(2)(B) incorporates substantive requirements of section 251, it allows this Commission to verify that Congress’s “three paths of entry into the local market – the construction of new networks, the use of unbundled elements of the incumbent’s network, and resale” – are available in practice.¹⁷ Part II of this Brief comprehensively addresses SWBT’s compliance with the detailed requirements of the checklist

¹⁶ See Michigan Order, 12 FCC Rcd at 20587-88, ¶ 82 (“when a BOC relies upon more than one competing provider to satisfy section 271(c)(1)(A), each such carrier need not provide service to both residential and business customers”); Kansas/Oklahoma Order ¶ 43 n.101 (holding that Track A can be satisfied where “‘competitors’ service to residential customers is wholly through resale”) (quoting Memorandum Opinion and Order, Application of BellSouth Corp., et al., for Provision of In-Region, InterLATA Services in Louisiana, 13 FCC Rcd 20599, 20635, ¶ 48 (1998) (“Second Louisiana Order”)).

¹⁷ Memorandum Opinion and Order, Application of BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In South Carolina, 13 FCC Rcd 539, 545-46, ¶¶ 10-11 (1997) (“South Carolina Order”).

and the implementing orders of this Commission and the Missouri PSC. In virtually every case, this compliance is accomplished through the same systems, processes, and procedures as were found sufficient for section 271 relief in Texas, Kansas, and Oklahoma.¹⁸

As explained below, and as this Commission held in its Texas Order and Kansas/Oklahoma Order, any CLEC can obtain from SWBT in a timely and efficient manner the facilities and services it needs to provide local service in Missouri, no matter what statutorily authorized mode of entry the CLEC selects. To ensure that this is so, SWBT has incurred “a concrete and specific legal obligation to furnish [each checklist] item upon request” and has done what is necessary to supply those items “in the quantities that competitors may reasonably demand and at an acceptable level of quality.” Michigan Order, 12 FCC Rcd at 20601-02, ¶ 110. The following sections (and the affidavits and other materials supporting them) discuss SWBT’s contractual offerings and the associated network arrangements.

A. Checklist Item 1: Interconnection

In satisfaction of Checklist Item 1, SWBT provides interconnection “at any technically feasible point” within its network that is “at least equal in quality” to the interconnection SWBT provides itself, on rates, terms, and conditions that are “just, reasonable, and nondiscriminatory.” 47 U.S.C. § 251(c)(2); Texas Order, 15 FCC Rcd at 18379-80, ¶ 61. CLECs in Missouri thus have access to the most fundamental prerequisite of local exchange competition – the ability to send their customers’ calls to, and receive calls from, customers of the incumbent carrier.

¹⁸ See Kansas/Oklahoma Order ¶ 108 (concluding that SWBT, through its application, “provides reliable evidence that the OSS systems in Texas are relevant and should be considered in our evaluation of SWBT’s OSS in Kansas and Oklahoma”); Second Louisiana Order, 13 FCC Rcd at 20604, ¶ 8, 20638, ¶ 58 & n.151 (allowing BOC to rely upon prior determinations of checklist compliance); *id.* at 20637-38, ¶ 56, 20655, ¶ 86 (evidence from other states admissible for region-wide processes).